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ORACLE AMERICA, INC.

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

ORACLE AMERICA, INC.
Plaintiff,
v.
GOOGLE INC.
Defendant.

Case No. CV 10-03561 WHA
**DECLARATION OF ANDREW
TEMKIN IN SUPPORT OF
ADMINISTRATIVE MOTION TO
SEAL RE: ORACLE'S RULE 59
MOTION FOR NEW TRIAL**

Dept.: Courtroom 8, 19th Floor
Judge: Honorable William H. Alsup

1 I, Andrew Temkin, declare and state as follows:

2 1. I am an attorney employed by Oracle America, Inc. ("Oracle"). My current title is
3 Senior Corporate Counsel. One of my responsibilities is supervising Oracle's outside counsel
4 with respect to litigation matters, including Oracle's lawsuit against Google. I am familiar with
5 Oracle's policies and business practices, including what information Oracle considers confidential
6 and does not disclose to the public.

7 2. I submit this declaration pursuant to Civil Local Rule 79-5 in connection with
8 Oracle's Administrative Motion to File Under Seal Re: Oracle's Rule 59 Motion for a New Trial
9 ("Motion"). I have personal knowledge of the facts set forth herein, and if called upon as a
10 witness, I could testify to them competently under oath.

11 3. I have reviewed supporting materials for Oracle's Motion.

12 4. The following pages from the excerpts of the March 31, 2016 deposition of Henrik
13 Stahl reflect confidential business discussions with third parties: p. 87, 88, 98, 102, and 103.

14 5. The following pages from the excerpts of the March 31, 2016 deposition of
15 Michael Ringhofer reflect confidential business discussions with third parties: p. 45, 46, 47, 48,
16 49, 54, 55, 56, and 57.

17 6. The following page from the excerpts of the January 14, 2016 deposition of Henrik
18 Stahl reflects confidential business discussions with third parties: p. 214.

19 7. The following pages from the excerpts of the December 16, 2015 deposition of
20 Georges Saab reflect confidential business discussions with third parties: p. 147, 148, 156, and
21 242.

22 8. The following page from the excerpts of the December 9, 2015 deposition of
23 Terrence Barr reflects confidential business discussions with third parties: p. 292.

24 9. The following pages from the excerpts of the April 6, 2016 deposition of Donald
25 Smith reflect confidential business discussions with third parties: p. 41, 42, 70, 71, 72, 73, 74, 75,
26 77, 78, 80, 83, 84, 85, 91, 93, 94, 95, and 96.

27 10. The following pages from the excerpts of the December 1, 2015 deposition of
28 David Hofert reflects confidential business discussions with third parties: p. 173, 174, and 175.

1 11. The following pages from the excerpts of the December 2, 2015 deposition of
2 Michael Ringhofer reflect confidential business discussions with third parties: p. 81, 82, 83, 84,
3 102, 103, 108, 109, 110, 111, 127, 128 and 129.

4 12. The document bearing the Bates number OAGOOGL2000062898-
5 OAGOOGL2000062900 is an email produced by Oracle in discovery in this action that reflects
6 confidential business discussions with third parties.

7 13. The document marked (but not admitted) as TX 5059 is an Oracle document
8 produced in discovery in this action entitled "FY12 Java Strategic Planning Review: Americas
9 Region." This document contains information related to license terms and negotiations with third
10 parties, including revenue figures.

11 14. The document marked (but not admitted) as TX 5060 is an Oracle email produced
12 in discovery in this action. This email reflects confidential business discussions with third
13 parties.

14 15. The document marked (but not admitted) as TX 5063 is an Oracle email produced
15 in discovery in this action. This email reflects confidential business discussions with third
16 parties.

17 16. The document marked (but not admitted) as TX 5064 is an Oracle email produced
18 in discovery in this action. This email reflects confidential business discussions with third
19 parties.

20 17. The document marked (but not admitted) as TX 5627 is an Oracle email produced
21 in discovery in this action. This email reflects confidential business discussions with third
22 parties.

23 18. The document marked (but not admitted) as TX 5628 is an Oracle email produced
24 in discovery in this action. This email reflects confidential business discussions with third
25 parties.

26 19. The document marked (but not admitted) as TX 5632 is an Oracle email produced
27 in discovery in this action. This email reflects confidential business discussions with third
28 parties.

1 20. The document marked (but not admitted) as TX 5634 is an Oracle email produced
2 in discovery in this action. This document contains information related to license terms and
3 negotiations with a third party, including proposed financial terms.

4 21. The document marked (but not admitted) as TX 5635 is an Oracle email produced
5 in discovery in this action. This document contains information related to license terms and
6 negotiations with a third party, including proposed financial terms.

7 22. The document marked (but not admitted) as TX 5637 is an Oracle document
8 produced in discovery in this action entitled "Executive Briefing Document." This document
9 reflects confidential business discussions with a third party.

10 23. The document marked (but not admitted) as TX 5642 is an Oracle document
11 produced in discovery in this action entitled "Java Market Analysis." This document contains
12 information related to license terms with a third parties, including confidential financial terms.

13 24. The document marked (but not admitted) as TX 5840 is an Oracle email produced
14 in discovery in this action. This email reflects confidential business discussions with third
15 parties.

16 25. The document marked (but not admitted) as TX 5844 is an Oracle document
17 produced in discovery in this action entitled "Go to Market Activities." This document reflects
18 confidential business discussions with a third party.

19 26. The document marked (but not admitted) as TX 5850 is an Oracle email produced
20 in discovery in this action. This email reflects confidential business discussions with third
21 parties.

22 27. The document marked (but not admitted) as TX 5886 is an Oracle email produced
23 in discovery in this action. This email reflects confidential business discussions with third
24 parties.

25 28. The document marked (but not admitted) as TX 5887 is an Oracle email produced
26 in discovery in this action. This email reflects confidential business discussions with third
27 parties.

28 29. The document marked (but not admitted) as TX 5893 is an Oracle email produced

1 in discovery in this action. This email reflects confidential business discussions with third
2 parties.

3 30. The document marked (but not admitted) as TX 5894 is an Oracle email produced
4 in discovery in this action. This email reflects confidential business discussions with third
5 parties.

6 31. The document marked (but not admitted) as TX 5961 is an Oracle email with
7 document attachments produced in discovery in this action. The document attachments reflect
8 confidential business discussions with third parties.

9 32. The document marked (but not admitted) as TX 6431 is an Oracle email with
10 document attachments produced in discovery in this action. The document attachments reflect
11 confidential business discussions with third parties.

12 33. The document marked (but not admitted) as TX 6470 is an Oracle email with
13 document attachments produced in discovery in this action. The document attachments reflect
14 confidential business discussions with third parties.

15 34. The document marked (but not admitted) as TX 6905 is an Oracle document
16 produced in discovery in this action entitled "Java Design Win Business Plan version 2." This
17 document contains information related to license terms and negotiations with a third party,
18 including proposed financial terms.

19 35. The document marked (but not admitted) as TX 9179 is an Oracle document
20 produced in discovery in this action entitled "Java Source Licensee Update-20th July 2012." This
21 document reflects confidential business discussions with third parties.

22 36. Information regarding Oracle's licensing and pricing negotiations with third
23 parties is considered commercially sensitive and is treated as confidential within Oracle. Oracle
24 does not disclose this information to the public and restricts knowledge of this information within
25 Oracle to a subset of persons who need the information for their business operations. Disclosure
26 to the public and to Oracle's competitors of such information could harm Oracle. Harm to Oracle
27 could include, among other things, an adverse impact on Oracle's ability to negotiate licenses for
28 Java products because other Oracle partners may use such information as leverage against Oracle

1 during negotiations. Similarly, Oracle treats as confidential documents and information reflecting
2 discussions with third party customers and/or prospective customers that would tend to reveal
3 either Oracle or the third party's business strategies. Oracle submits that the risk of competitive
4 harm that would be created by public disclosure of this information justifies the narrow sealing
5 order requested herein.

6
7 I declare under penalty of perjury under the laws of the State of California and the United
8 States of America that the foregoing is true and correct to the best of my knowledge.

9 Executed this 6th day of July, 2016, at San Francisco, California.

10
11 /s/ Andrew Temkin

12 Andrew Temkin
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